

State of California  
Business, Transportation & Housing Agency  
Department of Transportation

POLICY MATTERS  
Draft GARVEE Program Guidelines-Notice  
Information Item

Prepared By:  
Rick Terry  
Acting Program Manager,  
Innovative Finance  
(916) 324-7654

CTC Meeting: August 23-24, 2000  
  
Agenda Item: 4.4

Original Signed By  
\_\_\_\_\_  
W.J. EVANS, Deputy Director  
Finance  
August 1, 2000

## **DRAFT GUIDELINES FOR THE SB 928 GARVEE BOND PROGRAM**

### **BACKGROUND**

Government Code sections 14550, and 14552-14555 added by Chapter 783 of the Statutes of 1999 (Senate Bill (SB) 928) authorize the State to issue Grant Anticipation Revenue Vehicles (GARVEE bonds) to accelerate funding of transportation projects.

Only “eligible projects” that are currently programmed in the STIP, have environmental clearance and have completed project design qualify for GARVEE funding. “Eligible Projects” are defined in SB 928 as any highway or other transportation project that has been designated for accelerated construction by the California Transportation Commission (Commission).

Applicants must agree to pledge future receipts of federal transportation funds to bond payments for as long as the bond notes remain outstanding. All funds allocated are counted against the State Transportation Improvement Program county share for the county in which the project is located.

### **DISCUSSION**

The preliminary Draft Guidelines for the SB 928 GARVEE Bond Program were originally presented at the July 2000 Commission meeting and are being presented today for further discussion by the Commission. The Department has incorporated revisions requested by the Federal Highway Administration, Commission staff, regional transportation planning agencies, and the State Treasurer’s Office.

The Department anticipates the Guidelines will be on the Commission’s September agenda for adoption. Anyone wishing to comment on the Draft Guidelines should submit their written comments to:

Rick Terry, Acting Program Manager  
Innovative Finance  
1120 N Street, MS 6  
Sacramento, CA 95814

Comments may also be submitted by e-mail to Rick Terry @dot.ca.gov. Comments should be received by close of business, September 5, 2000, to allow time to finalize the guidelines for adoption in September.

**CALIFORNIA TRANSPORTATION COMMISSION  
GUIDELINES AND PROCEDURES  
FOR THE GRANT ANTICIPATION REVENUE  
VEHICLE (GARVEE) PROGRAM**

**Resolution G-00-\_\_**

**To Be Adopted September 28, 2000**

**CALIFORNIA TRANSPORTATION COMMISSION  
GUIDELINES AND PROCEDURES FOR THE GRANT  
ANTICIPATION REVENUE VEHICLE (GARVEE) PROGRAM**

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## **GRANT ANTICIPATION REVENUE VEHICLE (GARVEE BONDS)**

### **GUIDELINES**

#### **DRAFT**

### **1 AUTHORITY AND PURPOSE**

Government Code Sections 14550 and 14552-14555, added by Chapter 862 of the Statutes of 1999 (SB 928), authorize the state to issue Grant Anticipation Revenue Vehicles (GARVEE bonds) to accelerate funding of transportation projects. To the extent that this financing allows a project to be constructed sooner, it could be more cost effective by avoiding cost increases resulting from inflation. SB 928 specifies that these bonds shall not constitute a debt or liability of the state and bond repayments are to be made only from federal transportation funds.

GARVEE bonds were authorized at the federal level by Section 311 of the National Highway System Act of 1995, which significantly expanded the eligibility of bond and other debt instrument financing costs for Federal aid reimbursement. This change to the Federal aid program was codified into permanent highway law as an amendment to Section 122 of Title 23 of the United States Code.

Section 122 of Title 23 of the United States Code now makes bond-related costs eligible for Federal reimbursement on any Title 23 eligible Federal aid project. The definition of construction is revised in Title 23, Section 101, to include a reference to bond related costs eligible for reimbursement, including principal and interest payments, issuance costs, insurance, and other costs incidental to financing.

### **2 SCOPE OF GARVEE BOND PROGRAM GUIDELINES AND PROCEDURES**

These guidelines apply to all projects eligible under Title 23 USC when approved by the California Transportation Commission (CTC), the Federal Highway Administration (FHWA) and the regional transportation planning agency pursuant to Government Code sections 14550 and 14552-14555. For purposes of these guidelines, the term “eligible project” means any highway or other transportation project that has been designated for accelerated construction by the CTC through this GARVEE application process. These guidelines are intended to provide policy guidance and direction as well as procedures related to the selection of eligible projects and approval of bond financing.

Caltrans shall monitor GARVEE funds, outstanding debt, and repayment schedules and provide an annual “status of GARVEE funds report” for the preceding calendar year to the CTC. The report shall be submitted by February 1 of each year and shall include the

total amount of outstanding GARVEE debt issued and the projects funded. This information is required for the CTC's annual report to the Governor and Legislature which is due by April 1 of each year.

On or before April 1 of each year, the CTC, in conjunction with the Treasurer's office, shall prepare an annual analysis of the bonding capacity of federal transportation funds deposited in the State Highway Account (SHA) in the State Transportation Fund (STF). The capacity shall be limited to a level such that the annual repayment obligations of all outstanding notes would not exceed 30 percent of the total amount of federal transportation funds deposited in the SHA in the STF for any consecutive 12-month period within the preceding 24 months.

Specific topics governed by these guidelines include, project eligibility, GARVEE bond application review and approval, economic justification and fund availability and distribution.

The guidelines are intended to detail responsibilities and requirements, and provide guidance on making an application. CTC/Caltrans may develop and maintain additional internal administrative procedures necessary to carry out the legislative intent of this GARVEE bond program.

### **3 PROJECT ELIGIBILITY**

#### **3.1 General**

Only projects that are currently programmed in the STIP, including the Interregional Transportation Improvement Program (ITIP), in accordance with Streets & Highways Code section 164 (e) and have completed project design are eligible for funding under this program. Caltrans may also consider applications for projects that are STIP eligible. STIP eligible projects will be placed on a waiting list with funding approval contingent on the project's incorporation into the STIP and completion of project design. Projects, including preliminary engineering, right of way and construction activities, must meet all federal requirements, including compliance with the National Environmental Protection Act (NEPA).

"STIP eligible" means those types of projects defined in Streets and Highways Code section 164 (e) and as further clarified in the CTC's STIP guidelines, Section 25, and which are also consistent with the adopted RTP.

GARVEE funds may be used for capital and support costs for right of way and construction activities on highway or other transportation projects. GARVEE funds will only be approved when the project is within one year of starting construction unless otherwise determined by the CTC. It is the applicant's responsibility to evaluate whether the project is at the stage of development that construction can reasonably be expected to

begin within one year from the date any GARVEE funds are approved by the CTC. (See Section 6)

Funds that are subject to the constraints of Section 1 or 2 of Article XIX of the California Constitution may be used as the state or local principal matching share for any project that is eligible for federal matching funds and which is funded pursuant to this program.

It must be demonstrated that proposed projects are more appropriately funded by GARVEE than other funding options, including, but not limited to, pay-as-you-go, federal advance construction, federal incremental advance construction, or other funding methods authorized under federal law to achieve maximum efficiency from the state's federal allocation of transportation funds. The CTC will make the final determination of the most appropriate funding source.

Applicants must have reviewed existing resources to identify other possible funding that may be available for the project. Applicants for GARVEE funds must certify that other funding sources are insufficient to complete the construction of the project or to meet the timetable presented in the application for accelerated funding.

Unless waived by the CTC, applicants must limit a GARVEE request for any single county for one or more projects to an amount not greater than \$100 million but not more than 50 percent of the regional share funding allocation (county share) as published in the most recent STIP Fund Estimate for that county. If a GARVEE is paid off, additional GARVEE funds could then be requested as long as the project fund allocation remains within these financial limits.

### **3.2 Minimum Requirements**

Projects proposed for GARVEE funding must meet the following minimum requirements:

- the project is in the STIP and has completed project design (or is STIP eligible and will be incorporated in the STIP and have completed design within one year).
- the project complies with NEPA certification requirements or the final NEPA certification has been submitted to FHWA for final approval.
- for each project, unless waived by the CTC for a county with less than 500,000 population, the project costs for GARVEE funds are equal to or less than 50% of the county's share as shown in the most recent STIP Fund Estimate.

## **4 APPLICATION**

Any local entity that is a transportation planning agency or county transportation commission that is also the approving authority for the county's submission of projects to the STIP, may apply for GARVEE funds. Other local entities such as city or county

governments or local transportation authorities applying for GARVEE funds must apply jointly with the regional transportation planning agency or county transportation commission that is the approving authority for the county's submission to the STIP.

Applications will be submitted to Caltrans in the form of the GARVEE Application and Agreement adopted by the CTC. A Resolution approved by the Applicant's governing body authorizing the GARVEE application for the stated purpose and proposed terms must be attached to the application. Upon receipt, the application will be posted on the CTC web site for review by interested parties. Interested parties may submit comments concerning an application to Caltrans. Comments shall be in writing or electronic mail.

The GARVEE package can be requested from:

GARVEE Program  
California Department of Transportation  
1120 N Street, MS 6  
Sacramento, CA 95814

Attention:  
Innovative Finance, GARVEE  
Program  
Phone: (916) 324-7655  
FAX: (916) 324-7708

or obtained from the Commission's web page: <http://www.dot.ca.gov/CTC/>.

Applicants must submit an original and three copies of all mandated GARVEE materials to Caltrans.

## **5 APPROVAL**

Caltrans will review and analyze each application in a timely manner and make a determination whether all Government Code section 14533 conditions required for the approval of GARVEE funds are met. Caltrans will submit a GARVEE fund request and/or a recommendation to approve or disapprove to the CTC for each application it receives. There is, however, no guarantee an application received first will be approved by the CTC first, or at all when all other factors have been weighed.

The GARVEE request and recommendation to be presented to the CTC shall include all of the following information:

- identity of the applicant
- the date and time the application was received by Caltrans.
- the project(s) description
- amount of GARVEE funds requested for project costs
- requested period for repayment of GARVEE funding
- anticipated project cash flow
- estimated GARVEE bond issuance size and annual debt service at current market rates

- evidence that the project is in the STIP and has completed project design (or the dates that the project is expected to be included in the STIP and have a completed project design). If the project is not in the STIP, the CTC can only agree to fund if funds are available when the project is added to the STIP. GARVEE funds will not be approved unless the project is in the STIP with a completed design.
- the estimated date the project is scheduled for construction advertisement and award.
- Caltrans recommendation (approve/disapprove)
- copy of comments from interested parties.

The CTC intends that Caltrans include the following criteria to determine an application's status in determining its call on available funds.

- a) the date and order in which it is received.
- b) whether the cumulative total of funds available for GARVEE bonds is greater than the amount requested.
- c) useful life of the facility/project being financed: the useful life should be at least the term of the GARVEE.
- d) anticipated inflation savings due to earlier construction and right of way acquisition.
- e) anticipated economic, safety and other benefits from earlier construction.
- f) any other benefits of using GARVEE financing vs. other transportation financing options.

Caltrans may negotiate with an applicant for a reduced GARVEE bond amount when an application exceeds available funds.

Caltrans will not hold applications over for later processing whenever funding capacity has been reached. Instead, the CTC will suspend the GARVEE Program at that point. The CTC will also suspend or terminate the program whenever termination is deemed to be the most prudent action. Applications will not be processed during any suspension period. Applicants are encouraged to contact Caltrans' Innovative Finance Program in Sacramento to determine program status before submitting an application.

## **6 FUNDING**

Applicants are responsible to make accurate estimates of project costs. All GARVEE funds allocated to a project, including any allocation for cost overruns and financing costs, will be counted against the STIP county share for the county in which the project is located.

Projects funded under this program will be required to be under construction not later than one year after approval of GARVEE funds. If construction does not begin before the date set by Caltrans under this provision, Caltrans will notify the applicant that GARVEE funds will not be released to the project. For purposes of these guidelines, "construction"



is defined as the “award of construction” date. Caltrans will set the final date that construction may begin at the time it sets the date that the funds are available for distribution to the applicant. Caltrans will require applicants to agree in writing that construction of the project will begin no later than the date set by Caltrans. GARVEE funds will be disbursed on a reimbursement basis as work is completed on the project. At the discretion of the CTC, an advance payment equal to three months of expenses may be disbursed to cover initial cash flow requirements.

Recipients of GARVEE funds under this program shall provide Caltrans with a copy of the executed construction contract on, or before, the date set by Caltrans for construction to begin, as evidence that “construction” has begun. If, for any reason, the project must be readvertised for contract award after the date set by Caltrans, Caltrans will reassess the delay in construction and provide a recommendation to the CTC and the Treasurer whether to delay sale of the bonds.

Caltrans will transmit funds on a reimbursable basis directly to the applicant after the notes issued by the Treasurer are deposited in the Transportation Financing Subaccount and the applicant submits an invoice for an initial advance payment or an invoice that demonstrates payment has been made to the contractor.

## **7 ISSUANCE OF NOTES/BONDS**

The Treasurer will issue notes/bonds pursuant to a resolution of the CTC. The CTC resolution will contain all necessary authorizations for the Treasurer to issue notes/bonds and for repayment of such bonds/notes.

The Treasurer shall calculate the total GARVEE debt service on all outstanding bonds/notes after issuance of the newly authorized notes/bonds. Notes/bonds will not be issued if total GARVEE debt service would exceed the statutory limits after issuance of the newly authorized notes/bonds.

Bonds/notes issued may be secured by a trust agreement, indenture, or resolution between the CTC and a trustee. The trustee may be the Treasurer or a bank or trust company chartered under the laws of California or the United States and designated by the Treasurer.

The bonds/notes will be authorized by the Treasurer. No bond/note may mature more than 30 years from the date of issue. The interest rate(s), denomination and other terms and conditions of the note will be contained in the note.

The Treasurer shall determine the terms and conditions of the sale of the bonds/notes which can be sold at public or private sale, above or below par value.

Whenever the Treasurer deems that it will increase the salability or the price of the notes to obtain a legal opinion, other than that of the Attorney General, as to the validity or tax-exempt nature of the notes, the Treasurer may obtain that legal opinion. Payment for those legal services shall be made from the proceeds of the sale of the notes.

The Treasurer may employ financial, engineering, or transportation consultants or advisers, underwriters and accountants, as may be necessary in his or her judgment in connection with the issuance and sale of any notes by the Treasurer. The Treasurer may procure bond insurance or other credit enhancement or liquidity support when he/she determines it will increase the salability of the bonds/notes. Payment for these services may be made out of the proceeds from the sale of the notes. In addition bond/note proceeds may be used to fund a bond reserve fund or capitalized interest if needed.

## **8 REPAYMENT OF NOTES**

The applicant must agree to pledge its future share of receipts of federal transportation apportionments to the payment of principal, interest and premium on the notes, including costs involved in the bond sale process, for as long as the bonds/notes remain outstanding. All funds allocated, including cost overruns and financing costs, are counted against the STIP county share for the county in which the project is located.

**STATE OF CALIFORNIA - CALIFORNIA TRANSPORTATION COMMISSION**  
**GARVEE APPLICATION AND AGREEMENT**  
**FOR THE STATE HIGHWAY ACCOUNT (SHA) GARVEE PROGRAM**

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**SECTION I - APPLICANT INFORMATION**

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**Applicant:** \_\_\_\_\_**Mailing Address:**

Street Address (or P.O. Box)

City

State

Zip Code

**Authorized Representative:****Title:****Telephone No.:** (    )**Check, only one if true:**☐ The Applicant is the Approving Authority for the county's STIP submittal.☐ The Applicant is filing jointly with the Approving Authority for the county's STIP submittal (Complete Section II for Approving Authority).☐ The Applicant is the project administering agency/authority and is authorized (e.g. an attached approving resolution) by the Approving Authority for the county's STIP submittal to obligate future county share allocations and regional choice fund programming.

(Attach the Resolution/Agreement of the Approving Authority's, and if different, the Applicant's, governing body that authorizes Applicant to enter into an Agreement with the State for the purpose and terms stated in this GARVEE Application and Agreement.)

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**SECTION II - CO-APPLICANT INFORMATION**

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**Co-Applicant Name:** \_\_\_\_\_**Mailing Address:**

Street Address (or P.O. Box)

City

State

Zip Code

**Authorized Representative:****Title:****Telephone No.:** (    )

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**SECTION III- SHA GARVEE REQUEST (Rounded to nearest thousand)**

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**AMOUNT REQUESTED**    \$**Length of Note:**

Years

Months

Year

Year        \_\_\_\_\_

Total

**Check only if the answer is true:**☐ Project is in the STIP and in an adopted Regional Transportation Plan (RTP).☐ Project complies with NEPA certification requirements and has an EIR prepared.*Continued on Page 2*

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**FOR DEPARTMENT USE ONLY**

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Date and time received (STAMP):

Application Status:

Caltrans GARVEE Program Officer Signature:

Date:

## Date:

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**SECTION IV - APPLICANT FINANCIAL INFORMATION**

**Describe the financing request:** (Include project sponsors, financing commitments, and current status of funding. List all sources of funds for the project and the amount to be financed through the GARVEE program.

**Timing of Repayment:** (Describe the repayment schedule from future receipts of federal transportation allocations).

**Applicant's Proposed Repayment Schedule:**

**Amount of Note:** \$\_\_\_\_\_ **Terms**\_\_\_\_\_ **Months/Years**

☐ \$\_\_\_\_\_ Equal payments of Principal and Interest \* ☐ Biennially ☐ Annually ☐ Biannually ☐ Quarterly

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**SECTION V – APPLICANT SIGNATURE**

*The authorized person for the Applicant must read, agree and sign the statements below for this to be considered an official application.*

As the Applicant, or as an authorized representative of the Applicant, I hereby submit this Application for GARVEE funds and represent that the information and financial data contained herein are true and correct to the best of my knowledge. I understand that additional information may be requested and authorize the California Department of Transportation to independently verify any information contained in this Application. I also understand that the acceptance and consideration of this Application does not constitute a commitment of funds by the California Transportation Commission. Attached is the Approving Resolution approved by the Applicant's governing body authorizing this application for the stated purpose and proposed terms, and the undersigned to perform all acts necessary to the GARVEE Application and Agreement.

Authorized Applicant Signature:

Date:

Print Name:

Title:

Date:

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**SECTION VI -****Applicant's Certification and Authorization**

\_\_\_\_\_ (Applicant) is applying for GARVEE funds in the  
(Applicant's (local agency's) name)

principal amount of \$\_\_\_\_\_ to be approved by the California Transportation Commission from unallocated funds in the State Highway Account and the project(s) is eligible under the State Transportation Improvement Program and included within an adopted regional transportation plan. I, \_\_\_\_\_, as the Authorized Representative of Borrower, certify to the following:

1. Other resources are not available to fund the project(s) for which the loan is requested.
2. The agency does not intend to bank or invest borrowed State Highway Account funds at a higher yield than the Pooled Money Investment Account rate in effect while the monies are borrowed (arbitrage).

**Authorization**

Applicant, who is the Project Administering Agency/Authority, possesses legal authority to enter into this GARVEE Agreement and construct the proposed project(s); and by official action (e.g., the attached resolution) the Approving Authority's governing body authorizes this certification, including all understandings and assurances contained herein. The undersigned Authorized Representative is authorized to execute this Application and Agreement and to act in connection with this Application and Agreement and to provide such additional information as may be required.

***Project Administering Agency/Authority will give the California Department of Transportation's representative access to, and the right to, examine all records, books, papers, or documents related to the project(s) at anytime and for three years following the full repayment of GARVEE funds and all applicable interest owed.***

Project Administering Agency/Authority will comply where applicable with provisions of the California Environmental Quality Act and any other applicable federal, state, and/or local laws, rules and/or regulations.

I, \_\_\_\_\_, as authorized representative of Applicant, certify that the information contained in this Certification and Authorization, including all required attachments, is true and accurate and I understand and agree to the assurances set forth on this form.

Authorized Representative:

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Printed (Name and Title): \_\_\_\_\_

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**SECTION VII - TERMS AND AGREEMENT**

**Applicant Understands and Agrees to the following:**

**(1) Obligation:**

The principal amount approved by the California Transportation Commission and as established in Section IV herein above is agreed to by the Applicant.

**(2) Interest Rate:**

(need language from the STO)

**(3) Term (length) of: Bond**

Terms and payment schedules are subject to the adopted projection of available funds and length of time the funds are available in effect at the time the application was received by the Department of Transportation. Repayment of all principal and interest from non-State sources must be made no later than the date approved for these GARVEE funds by the California Transportation Commission, which shall be in substantial agreement with the term requested by the applicant in Section IV.

**(4) Dedicated revenue stream(s) and repayment schedule:**

Revenue stream(s) dedicated to repayment of the GARVEE funds, including interest and cost overruns, and the repayment schedule **are** as stated in Section IV. Repayment will include a pledge of receipts of future federal transportation allocations.

**(5) Prepayment:**

Partial or full prepayment of the outstanding GARVEE note(s) and/or interest may be made in advance of the repayment schedule stated in Section IV without penalty.

**(6) Cause to Rescind:**

Should the project(s) funded from GARVEE funds fail to go to construction within six months as defined by the California Transportation Commission in the "GARVEE Program Guidelines," the Department of Transportation may redirect the GARVEE funds to another project.

**ACCEPTANCE OF GARVEE PROGRAM TERMS:**

\_\_\_\_\_ accepts GARVEE funds the amount of \$\_\_\_\_\_ with  
the

(Applicant)

terms stated herein.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Dated



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**FOR DEPARTMENT USE ONLY**

This Application is recommended for approval subject to the following conditions:

Reduce the amount of GARVEE funds to \$\_\_\_\_\_ (if applicable) [Delete Project # \_\_\_\_\_]

Approve GARVEE funds in the amount of \$\_\_\_\_\_

Signature of Caltrans GARVEE Program Officer

Date

Typed or Printed Name

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**CALIFORNIA TRANSPORTATION COMMISSION**

The California Transportation Commission approved this application for GARVEE funds pursuant to Government Code Section 14553

in the amount of \$ \_\_\_\_\_

Resolution Number: \_\_\_\_\_ Dated: \_\_\_\_\_

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**STATE CONTROLLER**

Amount Encumbered by  
this Document:

\$ \_\_\_\_\_

Program/Category (Code & Title):

\_\_\_\_\_

Fund Title:

State Highway Account

Item: \_\_\_\_\_

Chapter: \_\_\_\_\_

Statute: \_\_\_\_\_

Fiscal Year: \_\_\_\_\_

Total Amount Encumbered to Date:

\$ \_\_\_\_\_

Object of Expenditure (Code and Title):

\_\_\_\_\_

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of payment stated in the above GARVEE Application and Agreement.

\_\_\_\_\_  
T.B.A. No.

\_\_\_\_\_  
B.R. No.

Signature of Accounting Officer

Date

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**An original and three copies of the GARVEE Application and Agreement, and all applicable attachments, may be mailed to:**

**California Department of Transportation  
State Highway Account GARVEE Program  
Attention: GARVEE Program Manager, Innovative Finance  
1050 20<sup>th</sup> Street, MS-6  
Sacramento, CA 95814**

Phone: (916) 324-7625

FAX: (916) 324-7708

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**ATTACHMENTS CHECKLIST:**

- ( ) Approving Resolution of the Applicant agency's governing body that authorizes the entering into a GARVEE Agreement with the State for the purpose and terms stated in the application, and that names an Authorized Representative to perform all acts necessary to the Application and Agreement.
  - ( ) If different than the Applicant, the Approving Resolution of the governing body for the agency that is the "approving authority" for the county's STIP submittal that authorizes the joint filing of the application and/or acknowledges the obligation of future county share allocations and regional choice fund programming in the case of default on the loan. The resolution may also name an Authorized Representative to perform all acts necessary to the Application and Agreement.
  - ( ) Project site map
  - ( ) Certification of environmental clearance
  - ( ) Project Design Approval
  - ( ) Right-of-way certification, if applicable.
  - ( ) Major Milestone detail. (Include the current project schedule reflected in the adopted Regional Transportation Plan, and the accelerated schedule if GARVEE funds are approved.)
  - ( ) A financial plan that demonstrates full funding of all phases of the project .
-



*Item 4.4*

REC'D BY CTC

AUG 10 2000

PHILIP ANGELIDES  
Treasurer  
State of California

August 10, 2000

Mr. James W. Kellogg, Chairman  
California Transportation Commission  
1120 N Street, Room 2233 (MS-52)  
Sacramento, CA 95814

Dear Jim:

Thank you for the opportunity to comment on the draft GARVEE guidelines. For your consideration, I am attaching a draft of the guidelines reflecting our comments, which are, for the most part, technical in nature.

As the state's fiscal and investment officer, my role is not simply to provide access to the capital markets, but also to advocate for the most prudent, effective and efficient use of public funds. Over the next 20 years, California is expected to grow by 12 million residents. As we invest billions of dollars to accommodate this growth, it is critical that we do so in a way that will help to assure our State's long-term economic prosperity.

Our future economic strength is inextricably tied to the dual goals of maintaining California's unique environment and quality of life, and our ability to lift those communities that continue to struggle while most of the State is doing well economically. In the event demand for GARVEE financing increases over time, consideration should be given to adoption of guidelines giving priority for available financing capacity to projects that help to achieve these goals.

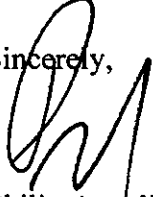
Therefore, I recommend that the Commission, when it adopts its GARVEE guidelines, also schedule a review of those guidelines. This review should take place at such time as one half of the statutorily allowable federal apportionment (15%) has been allocated to annual GARVEE debt service, or in twenty-four months, whichever occurs first.

At that time, the Commission can establish priorities designed to reward projects that help achieve larger public policy goals. For example, priority could be given to projects that improve California's ability to meet federal and state air quality standards, utilize funds to lessen dependence on single occupancy automobiles, and promote infill or redevelopment of existing industrial commercial or residential sites.

Mr. James W. Kellogg  
August 10, 2000  
Page 2

I look forward to working with you and the other Commission members in the months ahead to develop the best possible program. Thank you for your consideration; please contact me or Deputy State Treasurer Cathy Calfo at (916) 653-2995 if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to be 'Philip Angelides', written over the word 'Sincerely,'.

Philip Angelides  
State Treasurer

Attachments

Mr. James W. Kellogg  
August 10, 2000  
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cc: California Transportation Commission Members:  
Mr. Jeremiah F. Hallisey, Vice-Chairman  
Mr. Robert J. Abernethy, Member  
Mr. Esteban E. Torres, Member  
Mr. Roger A. Kozberg, Member  
Mr. Robert A. Wolf, Member  
Mr. Allen M. Lawrence, Member  
Honorable Betty Karnett, Ex-Officio Member  
Honorable Tom Torlakson, Ex Officio Member

Ms. Maria Contreras-Sweet, Secretary  
Business, Transportation & Housing Agency

Mr. Jeff Morales, Director  
Department of Transportation

Mr. Robert I. Remen, Executive Director  
California Transportation Commission

Ms. Cathy Calfo  
Deputy Treasurer

**GRANT ANTICIPATION REVENUE VEHICLES  
(GARVEE BONDS)**

**GUIDELINES**

**DRAFT**

**1 AUTHORITY AND PURPOSE**

Government Code Sections 14550 and 14552-14555, added by Chapter 862 of the Statutes of 1999 (SB 928), authorize the state to issue Grant Anticipation Revenue Vehicles (GARVEE bonds) to accelerate funding of transportation projects. To the extent that this financing allows a project to be constructed sooner, it could be more cost effective by avoiding cost increases resulting from inflation. SB 928 specifies that these bonds shall not constitute a debt or liability of the state and bond repayments are to be made only from federal transportation funds.

GARVEE bonds were authorized at the federal level by Section 311 of the National Highway System Act of 1995, which significantly expanded the eligibility of bond and other debt instrument financing costs for Federal aid reimbursement. This change to the Federal aid program was codified into permanent highway law as an amendment to Section 122 of Title 23 of the United States Code.

Section 122 of Title 23 of the United States Code now makes bond-related costs eligible for Federal reimbursement on any Title 23 eligible Federal aid project. The definition of construction is revised in Title 23, Section 101, to include a reference to bond related costs eligible for reimbursement, including principal and interest payments, issuance costs, insurance, and other costs incidental to financing.

**2 SCOPE OF GARVEE BOND PROGRAM GUIDELINES AND PROCEDURES**

These guidelines apply to all projects eligible under Title 23 USC when approved by the California Transportation Commission (CTC), the Federal Highway Administration (FHWA) and the regional transportation planning agency pursuant to Government Code sections 14550 and 14552-14555. For purposes of these Guidelines, the term "eligible project" means any highway or other transportation project that has been designated for accelerated construction by the CTC. These guidelines are intended to provide policy guidance and direction as well as procedures related the selection of eligible projects and approval of bond financing..

Caltrans shall monitor GARVEE funds, outstanding debt, and repayment schedules and to provide an annual "status of GARVEE funds report" for the preceding calendar year to

the Commission. The report shall be submitted by February 1 of each year and shall include the total amount of outstanding GARVEE debt issued and the projects funded. This information is required for the Commission's annual report to the Governor and Legislature which is due by April 1 of each year.

On or before April 1 of each year, the CTC, in conjunction with the Treasurer's office, shall prepare an annual analysis of the bonding capacity of federal transportation funds deposited in the SHA in the STF. The capacity shall be limited to a level not to exceed the annual repayment obligations of all outstanding notes in any fiscal year would exceed 30 percent of the total amount of federal transportation funds deposited in the State Highway Account (SHA) in the State Transportation Fund (STF) for any consecutive 12-month period within the preceding 24 months.

Specific topics governed by these Guidelines include, project eligibility, GARVEE bond application review and approval, economic justification and fund availability and distribution.

The Guidelines are intended to detail responsibilities and requirements, and provide guidance on making an application. CTC/Caltrans may develop and maintain additional internal administrative procedures necessary to carry out the legislative intent of this GARVEE bond program.

### **3 PROJECT ELIGIBILITY**

#### **3.1 General**

Only projects that are currently programmed in the STIP in accordance with Streets & Highways Code section 164 (e) and have completed project design are eligible for funding under this program. Caltrans may also consider applications for projects that are STIP eligible. STIP eligible projects will be placed on a waiting list with funding approval contingent on the project's incorporation into the STIP and completion of project design. Projects, including preliminary engineering, right of way and construction activities, must meet all federal requirements, including compliance with the National Environmental Protection Act (NEPA).

"STIP eligible" means those types of projects defined in Streets and Highways Code section 164 (e) and as further clarified in the CTC's STIP guidelines, Section 25, and which are also included in the adopted RTP.

GARVEE funds may be used for capital and support costs for right of way and construction activities on highway or other transportation projects that have been designated for accelerated construction by the CTC. Transit projects are not eligible for funding under the GARVEE program. GARVEE funds will only be approved when the project is within six months of starting construction. It is the applicant's responsibility to evaluate whether the project is at the stage of development that construction can

reasonably be expected to begin within 6 months from the date any GARVEE funds are approved by the CTC. (See Section 6)

Funds that are subject to the constraints of Section 1 or 2 of Article XIX of the California Constitution may be used as the state or local principal matching share for any project that is eligible for federal matching funds and which is funded pursuant to this program.

It must be demonstrated that proposed projects are more appropriately funded by GARVEE than other funding options, including, but not limited to, pay-as-you-go, federal advance construction, federal incremental advance construction, or other funding methods authorized under federal law to achieve maximum efficiency from the state's federal allocation of transportation funds. The CTC will make the final determination of the most appropriate funding source.

Applicants must have reviewed existing resources to identify other possible funding that may be available for the project. Applicants for GARVEE funds must certify that other funding sources are insufficient to complete the construction of the project or to meet the timetable presented in the application for accelerated funding.

Applicants must limit a GARVEE request for any single county for one or more projects to an amount not greater than \$100 million but not more than 50 percent of the regional share funding allocation (county share) as published in the most recent STIP Fund Estimate for that county. If a GARVEE is paid off, additional GARVEE funds could then be requested as long as the project fund allocation remains within these financial limits.

### **3.2 Minimum Requirements**

Projects proposed for GARVEE funding must meet the following minimum requirement:

- the project is in the STIP and has completed project design (or is STIP eligible and will be incorporated in the STIP and have completed design within \_\_\_\_ months).
- the project complies with NEPA certification requirements or the final NEPA certification has been submitted to FHWA for final approval.
- for each project unless waived by the CTC for a county with less than 500,000 population, the project costs for GARVEE funds are equal to or less than 50% of the county's share as shown in the most recent STIP Fund Estimate.

### **3.3 Ineligible Projects**

Highway and other transportation projects that are not designated for accelerated construction by the CTC are ineligible for the GARVEE program. Transit projects are also ineligible. Caltrans will automatically reject an application that includes funding for any project that would be prohibited under Article XIX of the California Constitution (i.e., rolling stock, freight carrier, non-transportation related, etc.).



#### **4 APPLICATION**

Any local entity that is a transportation planning agency or county transportation commission that is also the approving authority for the county's submission of projects to the STIP, may apply for GARVEE funds. Other local entities such as city or county governments or local transportation authorities applying for GARVEE funds must apply jointly with the regional transportation planning agency or county transportation commission that is the approving authority for the county's submission to the STIP

Applications must be completed using the "Uniform GARVEE Application and Agreement" package adopted by the CTC. The GARVEE package can be requested from:

GARVEE Program  
California Department of Transportation  
1120 N Street, MS 6  
Sacramento, CA 95814

Attention:  
Innovative Finance, GARVEE  
Program  
Phone: (916) 324-7624  
FAX: (916) 324-7708

or obtained from the Commission's web page: <http://www.dot.ca.gov/CTC/>.

Applicants must submit an original and three copies of all mandated GARVEE materials to Caltrans.

#### **5 APPROVAL**

Caltrans will review each application in the order received. Caltrans will submit the GARVEE request, its recommendation and any comments from interested parties to the CTC at its next regularly scheduled meeting when time permits. There is, however, no guarantee an application received first will be approved by the CTC first, or at all when all other factors have been weighed.

Caltrans is responsible for reviewing and analyzing applications in a timely manner. Caltrans will review and analyze each application and make a determination whether all Government Code section 14533 conditions required for the approval of GARVEE funds are met. Caltrans will submit a GARVEE fund request and/or a recommendation to approve or disapprove to the CTC for each application it receives.

The process conducted by Caltrans during the 30-day period following any CTC approval of GARVEE funds will include the following:

- the reconciliation of discrepancies between the approved amount and terms of repayment if different from those requested in the application.
- setting the final date for construction to begin
- execution of the GARVEE agreement.
- accounting activities necessary to transmit GARVEE funds.

The GARVEE request and recommendation to be presented to the CTC shall include all of the following information:

- identity of the applicant
- the date and time the application was received by Caltrans.
- the project(s) description
- amount of GARVEE funds requested for project costs
- requested period for repayment of GARVEE funding
- estimated GARVEE bond issuance size and annual debt service at current market rates
- evidence that the project is in the STIP and has completed project design (or the dates that the project is expected to be included in the STIP and have a completed project design). If the project is not in the STIP, the CTC can only agree to fund if funds are available when project is included into the STIP. GARVEE funds will not be approved unless the project is in the STIP with a completed design.
- the estimated date the project is scheduled for construction advertisement and award.
- Caltrans recommendation (approve/disapprove)
- copy of comments from interested parties.

Caltrans will not hold applications over for later processing whenever funding capacity has been reached. Instead, the Commission will suspend the GARVEE Program at that point. The Commission will also suspend or terminate the program whenever termination is deemed to be the most prudent action. Applications will not be processed during any suspension period. Applicants are encouraged to contact Caltrans' Innovative Finance Program in Sacramento to determine program status before submitting an application.

## 6 FUNDING

Applicants are responsible to make accurate estimates of project costs. All GARVEE funds allocated to a project, including any allocation for cost overruns and financing costs, will be counted against the STIP county share for the county in which the project is located.

Projects funded under this program will be required to be under construction not later than 6 months after approval of GARVEE funds. If construction does not begin before

the date set by Caltrans under this provision, Caltrans will notify the applicant that GARVEE funds will not be released to the project. Caltrans will set the final date that construction may begin at the time it sets the date that the funds are available for distribution to the applicant. Caltrans will require applicants to agree in writing that construction of the project will begin no later than the date set by Caltrans. GARVEE funds will be disbursed on a reimbursement basis as work is completed on the project

Recipients of GARVEE funds under this program shall provide Caltrans with a copy of the executed construction contract on, or before, the date set by Caltrans for construction to begin, as evidence that "construction" has begun. If, for any reason, the project must be readvertised for contract award after the date set by Caltrans, Caltrans will reassess the delay in construction and provide a recommendation to the CTC and the Treasurer whether to delay sale of the bonds.

Caltrans will transmit funds on a reimbursable basis directly to the applicant after the notes issued by the Treasurer are deposited in the Transportation Financing Subaccount and the applicant submits an invoice that demonstrates payment has been made to the contractor.

## **7 ISSUANCE OF NOTES/BONDS**

The Treasurer will issue notes/bonds pursuant to a resolution of the CTC. The CTC resolution will contain all necessary authorizations for the Treasurer to issue notes/bonds and for repayment of such bonds/notes.

The Treasurer shall calculate the total GARVEE debt service on all outstanding bonds/notes after issuance of the newly authorized notes/bonds. Notes/bonds will not be issued if total GARVEE debt service would exceed the statutory limits after issuance of the newly authorized notes/bonds.

Bonds/notes issued may be secured by a trust agreement, indenture, or resolution between the CTC and a trustee. The trustee may be the Treasurer or a bank or trust company chartered under the laws of California or the United States and designated by the Treasurer.

The bonds/notes will be authorized by the Treasurer. No bond/note may mature more than 30 years from the date of issue. The interest rate(s), denomination and other terms and conditions of the note will be contained in the note.

The Treasurer shall determine the terms and conditions of the sale of the bonds/notes which can be sold at public or private sale, above or below par value.

Whenever the Treasurer deems that it will increase the salability or the price of the notes to obtain a legal opinion, other than that of the Attorney General, as to the validity or tax-

exempt nature of the notes, the Treasurer may obtain that legal opinion. Payment for those legal services shall be made from the proceeds of the sale of the notes.

The Treasurer may employ financial, engineering, or transportation consultants or advisers, underwriters and accountants, as may be necessary in his or her judgment in connection with the issuance and sale of any notes by the Treasurer. The Treasurer may procure bond insurance or other credit enhancement or liquidity support when he/she determines it will increase the salability of the bonds/notes. Payment for these services may be made out of the proceeds from the sale of the notes. In addition bond/note proceeds may be used to fund a bond reserve fund or capitalized interest if needed.

## **8 REPAYMENT OF NOTES**

The applicant must agree to pledge its future share of receipts of federal transportation funds to the payment of principal, interest and premium on the notes, including costs involved in the bond sale process, for as long as the bonds/notes remain outstanding. All funds allocated, including cost overruns and financing costs, are counted against the STIP county share for the county in which the project is located.